IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1343 OF 2004
IN
APPEAL FROM ORDER NO.952 OF 2004

Ashok Leyland Finance Ltd. ...Applicants

Vs.

Shreeprakash S. Shukla ...Respondent

CORAM: A.S.OKA,J.
DATE : FEBRUARY 21, 2005.

P.C.:

1. Rule. Respondent waives service.

2. My attention has been drawn to the ad-interim order dated 10th November 2004. It is an admitted position that the said order was challenged by the Respondent by filing Special Leave Petition in the Apex Court. The Apex Court has dismissed the Special Leave Petition by observing thus:

> . "After hearing the learned Counsel for the petitioner and the respondent on caveat, we are not inclined to interfere with the impugned order. The learned counsel for the petitioner submits that the petitioner is prepared to pay the amount of Rs.11,00,000/- (Rupees eleven lakhs only) as directed by the High Court but facility of payment through instalment may be allowed. For that purpose, the petitioner is at liberty to make a prayer to the High Court within ten days from today.
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> . The special leave petitions are dismissed."

3. Accordingly, Civil Application St.No.3305 of 2005 has been filed by the Respondent seeking instalments and the said Civil Application is also placed before me along with Application for interim relief. Shri Dhakephalkar on instructions of the Respondent states that the Respondent is ready and willing to

pay Rs.4,00,000/- within two weeks from today.

4. It is to be noted here that in order dated 10th November 2004 it is recorded that according to the Appellant the total amount due and payable is more than Rs.24,00,000/-. However, this Court directed the Respondent to deposit only Rs.11,00,000/- within two weeks from that date. From 10th November 2004, for a period of more than three months, no amount has been deposited by the Respondent. Today a submission is made that the Respondent is ready and willing to deposit a sum of Rs.4,00,000/- within two weeks from today. It is, therefore, obvious that the conduct of the Respondent is not bonafide. Period of 3 months has elapsed from the order dated 10th November 2004. Today the Respondent is not willing to pay any amount immediately. He wants further two weeks' time to pay Rs.4,00,000/-. Hence, a prayer to grant facility of instalments cannot be considered and accordingly Civil Application No.3305 of 2005 is rejected.

5. Civil Application Nos.1343 of 2004 and 1310 of 2004 are disposed of in terms of ad-interim order dated 10th November 2004. As the Respondent has committed default, the consequences provided in paragraph No.2 of the ad-interim order dated 10th November 2004 will follow.

6. The Court Receiver is directed to take necessary steps in terms of order dated 10th November 2004.

7. Parties and the Court Receiver to act upon an authenticated copy of this order.

JUDGE.